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August 10, 2009

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**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
ENERGY DIVISION**

SUBJECT: Protest of Solutions For Utilities, Inc. to  
Southern California Edison's Advice Letter 2364-E  
Entitled, "Request for Approval of Competitive Solicitation  
Process and Criteria for 250MW of SCE's Solar Photovoltaic  
Program and Draft Standard Power Purchase Agreement"

Dear Sirs and Madam,

On July 20, 2009 Southern California Edison (SCE) filed Advice Letter 2364-E seeking approval of the Process and Criteria for evaluating offers received pursuant to competitive solicitations for the 250 MW designated to IPPs; and, secondly, approval of Appendix B, a draft standard 20-year PPA for the Solar Photovoltaic Program (SPVP).

Pursuant to CPUC Rules of Practice and Procedure, Rule 2.6, Solutions For Utilities, Inc. (SFUI) hereby respectfully objects to the granting in part of the authorities sought in Southern California Edison's (SCE) Advice Letter (AL) 2364-E. The parts of SCE's AL 2364-E that SFUI protests to, objects to, or has comments on the Proposed Categories are as follows:

- I. Page 4, the first two paragraphs after the bulleted items. The Proposed Category here is SCE's location identification and assessment of interconnection capabilities.
- II. Page 7, B-1, the first bullet regarding Short List Eligibility Criteria does not include a reference to 10% ground-mount applications.
- III. Page 8, the continuation of B-1, first bullet, "The seller must have sufficient experience with large commercial and industrial roof-mounted PV installations," and missing 10% ground-mounted applications.
- IV. Page 8, Section IV, "Draft Standard 20-Year PPA modeled after the existing AB 1969 Standard Offer Contract".
- V. Page 9, 9th bullet, "SCE reserves termination rights in the 20-yr PPA if ... a project is later determined to trigger a transmission network upgrade."
- VI. Page 9, "Key Changes from the CREST Agreement," Proposed Categories of development security, prevailing wage requirement, and SCE's sole discretionary buyout.

VII. Appendix B, SPVP Power Purchase and Sale Agreement and its attached Appendixes A-F.

**I. Proposed Category of Location Identification and Assessment of Interconnection Facilities:**

SCE's AL 2364-E states at Page 4, quote:

"... studies will be required to fully assess the interconnection requirements and associated costs for a specific location. Factors such as circuit loading, proximity to load and other generation in the area or on the circuit will be used to determine the requirements for providing interconnection services for the proposed project."

The Protest is to require SCE to provide location specific information, and in a timely manner, and at no cost. SCE is proposing to list on their website "A list of zip codes which **identify preferred locations...**" This is appreciated as useful information; however this zip code list will not assist a renewable generator in analyzing a particular site for its potential use as a renewable energy facility.

Facts constituting grounds for the Protest are that SCE has stated through various channels and at the 7-31-09 San Francisco Workshop at which SCE presented its AL 2364-E that SCE was hindered by Homeland Security issues from releasing site specific existing line capacity, existing circuit loads, etc., and interconnection viability. SCE has indicated that the timing of making existing and viability information available to developers would be "after" a signed contract; and then, in the Workshop, SCE indicated site specific information could be made available to developers now.

As to cost, in the workshop, I believe, I heard a cost of approximately \$500. However, in prior communications with SCE, both no cost and a fee of \$800.00 have been discussed.

Further facts constituting grounds for this Protest are that the renewable generators participating in SCE's programs are well known to SCE as not being threats to Homeland Security. The renewable generators and SCE have been in workshops, hearings, discussions for some period of time.

Another fact constituting grounds for the protest is that all utility companies make connection, (tie-in), information and cost known to a developer or property owner upfront, before contracts for construction are signed; and this information from the utility is provided at no charge.

The factual basis of this experience is having been involved in the day-to-day operations for over 20 years of Hoffman Engineering and Pipeline, a general engineering contracting company that provides underground utility work. A client will call our office because they are building a new structure and want to bring the utilities to the new structure. The utilities being requested could be sewer, water, gas, electric, cable/telephone, storm drain. The client advises the specific location of the project. We then either go to the utility/municipality or district's office and look at their maps which show the existing utilities at the specific location; or we call into their office and discuss the maps and existing utilities with personnel in engineering or mapping departments; or, in most recent years, the information is available online. As more cities, water districts, and the county put their utility maps online, the ability is offered within minutes to determine the existing utilities at a specific location to determine how the tie-in or

interconnection will be performed, subject to published standard specifications and drawings that direct how tie-ins or interconnections will be accomplished.

The City of Vista's online improvement plans showing their sewer main lines and equipment is found at: (Use Internet Explorer to access)  
<http://www.cityofvista.com/departments/engineering/GISSewerAtlas.cfm>

The City of Vista's water service is provided by Vista Irrigation District. A contractor/developer can walk in and look at maps or call Jeanette Lympny at 760.597-3123, give the property address, and she will email or fax the improvement map/plan for that particular property address, and at no cost.

Improvement plans online for the City of Carlsbad's sewer and water existing main lines and equipment can be found at: (Use Internet Explorer.) <http://docpub.ci.carlsbad.ca.us/> Engineering Dept./Kathy, at (760) 602.2741, can assist with online software questions.

Yet another example is SDG&E's Policy for Contractors, Developers and Property Owners: Call residential or small commercial service coordinator office at 760.476.5619 or call Commercial Planning at 760.480.7645, describe the project, and that office will advise if current transmission equipment exists at the site and/or is sufficient for the proposed project, at no cost. Further, the assigning of a planner and the drawing of a tie-in or interconnection plan is at no cost. The planner will then submit to the applicant a letter detailing the cost of construction and an attached drawing of the interconnection, tie-in, to be accomplished. Charges are incurred if the project goes forward with construction to pay SDG&E for the work SDG&E does on the project. Although, a client does not

have to have the utility company perform the design nor the installation of the proposed system.

We request the Commission take Judicial Notice of SCE's website at:  
[http://www.sce.com/NR/sc3/tm2/RPA/Reg\\_Info\\_Ctr/LineandServiceRules/gas\\_and\\_electric\\_service\\_extension\\_rules.pdf](http://www.sce.com/NR/sc3/tm2/RPA/Reg_Info_Ctr/LineandServiceRules/gas_and_electric_service_extension_rules.pdf)

This six-page document is entitled "Overview of the Gas and Electric Distribution and Service Extension Rules". It describes on page 1 that these rules apply to PG&E, SCE, SDG&E, and others. On page 5, "Design Options" and "Installation Options" state that both design and installation may be accomplished using the utility company personnel or, quote, "by a qualified independent installer"...; in other words, where the client or applicant contracts directly with the design and installation companies.

Also, we would please ask the Commission to take Notice that there does not appear to be any call-out in this document for fees that are to be paid to just obtain the existing utility's equipment, capacity, existing load information and proposed cost of construction.

The effect of this part of SCE's AL 2364-E, the Proposed Category of Location Identification and Assessment of Interconnection Facilities, and its application to renewable energy generators is that it is not "simple and transparent to the greatest extent possible..." (See page 1 of 7-31-09 Workshop Agenda, Subject: Implementation of SCE's Solar PV Program, as outlined in Advice Letter 2364-E).

Another effect of the application of this section of the Advice Letter would also be to put a burden on generators that their SPVP PPA Contract with SCE could be cancelled if later system upgrades are

determined to be needed, per Page 9, 9th bullet of AL 2364-E. SCE is the expert in the business of how to interconnect a new electric system to their distribution system. There is no need to include a cancellation clause of a 20-year PPA if later system upgrades are determined to be needed. That should not even be a consideration.

A potential effect of the application of this section of the Advice Letter would be that, if SCE faces additional solar systems later installed on private property using the SCI or SGIP programs, and that was unexpected load when the producer's subject facility is built, and SCE is not providing information to the generator showing circuit loading, proximity to load and other generation in the area or on the circuit at the time of signing the 20-yr PPA, in other words, the "before" condition, how will the generator know what loads were added after the signing of their PPA and up and through when a potential demand letter could arrive from SCE stating that the project has now (meaning later on page 9 of AL 2364-E) been determined to have triggered a transmission network upgrade? The potential effect could have developers being charged by SCE for transmission network upgrades that were not a direct result of that developer's project; and, as stated, SCE's termination of the PPA.

The reasons Solutions For Utilities, Inc. believes the application of the section of AL 2364-E related to the Proposed Category of Location Identification and Assessment of Interconnection Facilities is not justified is for the reasons stated above.

We would request the Commission order SCE to perform the location identification and interconnection feasibility in conformance with the standard in the industry, as follows:

1. Provide on SCE's website and to the Service Lists the name, telephone, fax and email contact for SCE's personnel in their mapping department, or interconnection dept., etc., that will answer generator's questions regarding a particular site as described above within a 24-hour period. Because a client can walk into cities, water districts, etc. and look at their maps with personnel of that department and get immediate information on the existing utility lines at a particular location, requiring SCE to provide comparable information within 24 hours is justified. The 24 hours is further justified because a developer can go online and get needed information even quicker or make a phone call and get that information faxed or emailed.

2. This service should be ordered to be free of charge.

3. Order SCE to prepare interconnection drawings and cost estimates within five business days of request by a renewable generator.

4. Order SCE's Proposed Standard Contract for the Solar PV Program delete any reference to SCE having any termination rights if a project is later determined to trigger a transmission network upgrade. SCE is the expert.

4. If a PPA is executed, order SCE to provide blue-print sized maps for the project at the date of executing the PPA for the following: Circuit loading, proximity to load and other generation in the area or on the circuit for the proposed project's service area; and any other information needed to be mapped to determine the status of SCE's utility system as it exists at the time of the signing of the PPA.



**II. Page 7, B-1, the first bullet regarding Short List Eligibility**

**Criteria does not include a reference to 10% ground-mount applications.**

The facts constituting the grounds for the Protest is SCE's Advice Letter 2364-E at Page 7, B-1, first bullet, states, quote:

"Gross capacity should be primarily in the 1 to 2 MW range (DC) and built on rooftops";

yet the Commission has stated in D.09-06-049, at page 40, fn. 48 that no more than 10% of the overall program capacity shall be ground mounted.

The effect of the application of page 7 could be potential confusion that ground-mounted systems are not "Conforming Criteria to be Eligible for Short List".

SFUI would comment that it would be appropriate for the Commission to Order SCE to include wording that up to 10% ground-mounted projects are conforming eligible criteria to be short listed, in this paragraph, also, of the AL 2364-E.

**III. Page 8, the continuation of B-1, first bullet, "The seller must have sufficient experience with large commercial and industrial roof-mounted PV installations."**

The facts constituting the grounds for the Protest of the Proposed Category quoted above in Number III are as follows:

SFUI believes it is a fact that nowhere in Decision D.09-06-049 did the Commission Order SCE to include this limiting language regarding sufficient experience with roof or ground-mounted PV installations.

It would be a fact that this limiting language will preclude untold developers from being able to participate in the program.

It is also a fact that many successful business owners, and even municipalities, "hire up" or even subcontract the trades necessary to pursue a project.

The effect of the application of the limiting language, as quoted above at Number III, on the Protestant and potentially other developers would be projects would be ineligible for short-listing, and potentially, from the SPVP altogether.

Another effect would result by reducing diversity of participants in the program. In other words, only those who, in SCE's decision, have "sufficient experience", meaning only companies that have already been in the field may participate.

The reason SFUI believes the application of the limiting language quoted above is not justified is because California's employers and potential renewable generators are in a historic economic time and limiting the SPVP to only those who have already been in the field is not justified. It is just and reasonable to believe that many business owners and entrepreneurs are capable of hiring personnel or subcontracting with the required trades to construct solar PV systems, and oversee long-term personnel for the continued operation and maintenance of those systems. There are literally hundreds of electrical contracting firms and other trades' contracting firms that are certainly capable of building these systems and participating in the SPVP PPA process.

The Commission should order SCE to remove page 8, B-1 containing the limiting language as quoted above in the title of #III.

**IV. Page 8, Section IV, "Draft Standard 20-Year PPA modeled after the Existing AB 1969 Standard Offer Contract".**

The facts constituting grounds for the Protest to this Proposed Category are that the Commission, in D.09-06-049 at p. 41, directed SCE to follow the Standard Offer Contract based on AB 1969, SCE's CREST Contract, which Protestant believes is not simple and transparent, to the greatest extent possible; nor lowers the transaction costs for the seller, buyer, and the regulator; nor does the CREST Agreement equitably allocate risk, relative to project size, between the buyer and the seller. (SCE's stated goals for AL 2364-E.)

Further, a fact constituting grounds for the Protest to this Proposed Category are that the CREST Agreement has not resulted in generators signing these contracts. Since the inception of the Feed-In Tariff program, there are only a couple signed CREST Agreements, maybe even only one.

SFUI believes the CREST Agreement is fatally skewed toward SCE with many loopholes for SCE to unilaterally terminate the CREST Agreement, to the severe detriment of a renewable generator, after millions of dollars of investment.

AB 1969 is four pages long. SCE's proposed SPVP PPA is 15 pages with 16 pages of appendices, a total of 31 pages. The City of Gainesville, Florida, d/b/a Gainesville Regional Utilities (GRU) Solar Energy Purchase Agreement (SEPA) is six pages long; and it is simple, transparent and equitable. It could be modified in just a few editing corrections to apply to the instant SPVP contract needs.

Solutions For Utilities, Inc. would respectfully request the Commission modify its Decision requiring SCE to use the CREST Agreement, and instead order SCE modify Gainesville, Florida's (GRU's) SEPA Agreement for the SPVP.

**V. Page 9, 9th bullet, "SCE reserves termination rights in the 20-yr PPA if ... a project is later determined to trigger a transmission network upgrade."**

The facts constituting grounds for the Protest have been stated above in this document. The effect of the application of this part of AL 2364-E on Protestant and other renewable energy developers has been described above in this document. The reason SFUI believes the application of this part of the AL in regards to later determining a trigger for a transmission network upgrade is not justified is as explained prior in this Protest.

We would request the Commission order SCE remove the language at page 9, 9th bullet, quoted above in the title to #V.

**VI. Page 9, "Key Changes from the CREST Agreement," Proposed**

**Categories of development security, requirements, prevailing wage requirement, SCE's sole discretionary buyout.**

In D.09-06-049, at p. 41, quote:

"To the extent SCE believes modifications to the AB 1969 contract are necessary or beneficial, SCE may also provide a modified contract along with the AB 1969 contract in its advice letter."

1. Proposed Category of Development Security: The reason SFUI believes the application of development security is not justified is that development security is not needed to incentivize the developer to complete the project and go online. The developer only makes income once the system is online. Requiring developers to put up \$20,000, \$30,000 as development security will not change the developer's goal of a successful, operational solar system.

The effect of the application of development security to Protestant and possibly other generators is to tie up Protestant's available cash and balance sheet for no beneficial reason.

Solutions For Utilities, Inc. requests the Commission order SCE remove development security from the SPVP PPA.

2. Page 9, Proposed Category of Prevailing Wage Requirement: The facts constituting the grounds for the Protest to the proposed category of prevailing wage requirement are:

(a) The CREST Agreement, AB 1969-based contract, does not require prevailing wages.

(b) D.09-06-049 page 40 states, quote:

"For the 250 MW of the SPVP that will be developed by the IPPs, SCE shall procure this generation consistent with the objectives, parameters and timeframe established for the UOG projects of the SPVP."

Therefore, the Commission did not order SCE to include prevailing wages.

(c) Gainesville, Florida's contract for renewable energy does not require prevailing wages.

The effect of the application of prevailing wages to Protestant and other renewable generators is to double the labor cost, when including

employer-paid payroll wages and workers compensation premiums and additional general liability premiums, which are based on gross payroll.

The reason Solutions For Utilities, Inc. believes the application of prevailing wages is not justified is because, as stated previously, California is in the midst of historic unemployment. Renewable generators have thousands of skilled electricians, concrete tradespeople, machinery operators, roofers, who can perform professional work at competitive wages.

Doubling the payroll cost is not justified nor reasonable to SCE's ratepayers who, in the end, will be paying for this extraordinary and unnecessary increased cost.

Solutions For Utilities, Inc. would request the Commission order SCE to remove the prevailing wage requirements from the SVPV program PPA.

Page 9, Proposed category of SCE's sole-discretion buyout provision:

The facts constituting the grounds for the protest are that SCE is purchasing electric energy and RECs. SCE is not making payments to the renewable energy facility for its equipment, originally installed or replaced during the term of the PPA.

A fact constituting grounds for the protest is that a ground-mounted solar system would be attached to land. The SCE proposed PPA at 10.1 states, quote,

"SCE, in its sole discretion, shall have the option... to purchase and acquire from Producer, all of Producer's right, title and interest in and to all of Producer's assets, real, personal or mixed, tangible and intangible, of every kind and description, which are required or useful for the Ownership and Operation of the Generating Facility," etc.

This language at Section 10.1 could be construed to mean SCE would be buying the land (i.e. real property) needed to "support the solar system". 10.1 could possibly even be construed to mean the "real" property of a rooftop because it is, quote, "required or useful for the ownership and operation of the generating facility". How would SCE own and operate the generating facility without the rooftop or the land where the equipment is mounted?

The effect of the Buyout Provision potentially to the Protester is SCE's unfair and unjust taking of real property in the form of land or rooftop without adequate payment therefore.

Additionally, the effect of the Buyout provision as shown at Section 10.2 of \$100 per MW (DC) in SCE's sole discretion may not reflect the true value of the equipment from the renewable generator's perspective; and therefore be unjust to the generator at that time.

Because SCE has received its benefit of the contract, i.e. renewable energy procurement and green energy attributes, the Commission should order SCE remove the Buyout Provisions from the SPVP Contract.

**VII. Appendix B, SPVP Power Purchase and Sale Agreement and its attached Appendixes A-F.**

The facts constituting grounds for the Protest are that SCE's CREST Agreement is not clear and transparent to all. It is fatally skewed towards allowing SCE several ways of cancelling the contract by SCE just sending a 30-day letter to the renewable energy developer.

The effect of the application of SCE's CREST Agreement could even be

a banker would decline to make a loan based on the language contained in the Contract.

The effect to the renewable generator is a worry for 20 years that SCE could decide to cancel the contract using legalese language contained in the contract.

Examples of unclear and biased paragraphs are 6.1.1, 6.1.3, 6.1.5, 6.2.3, 6.4, 7.1 "...any other applicable contractual, tariff, legal and statutory requirements." So if a tariff changes in 20 years, SCE could require Producer to do something that Producer is not agreeing to at the time of signing the PPA?

Paragraph 7.8 "Generative Facility to the Delivery Point", please see also 2.6. Isn't the Producer supplying the energy at the renewable generating facility's interconnection point and not at the ISO pNode? 7.8 and 2.6 could be interpreted to mean that the Producer has a responsibility for the system from the Producer's property to the ISO pNode.

Other unclear legalese paragraphs include: 7.17.1, 7.17.2, 7.17.3, 8.6, 8.8, 9.3, 9.4, 10.1, 10.2, 16.1, 16.2, 16.3, 16.4, 16.5, all of 17, 20.1, 20.2, 20.8, 20.9, 20.14, 20.16, Appendix C, "Form of letter of Credit and its Attachment 'A'.

Thank you for your consideration of these issues and direction to SCE accordingly.

Sincerely,

Mary C. Hoffman  
Solutions For Utilities, Inc.  
(Continued on next page.)



cc: Commissioner Michael Peevey, President  
Commissioner Rochelle Chong  
Commissioner Dian Grueneich  
Commissioner John Bohn  
Commissioner Timothy Simon